107TH CONGRESS
1ST SESSION

H. R. 503

To amend title 18, United States Code, and the Uniform Code of Military
Justice to protect unborn children from assault and murder, and for
other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2001

Mr. GRAHAM (for himself, Mr. BACHUS, Mr. BARR of Georgia, Mr. CHABOT, Mr. COSTELLO, Mr. DELAY, Mr. HUTCHINSON, Mr. HYDE, Mr. BARCIA, Mr. SMITH of New Jersey, Mr. VITTER, Mr. HILLEARY, Mr. BURTON of Indiana, Mr. RYUN of Kansas, Mr. HALL of Texas, Mr. SHOWS, Mr. LARGENT, Mr. PITTS, Mr. GREEN of Wisconsin, Mr. COLLINS, Mr. GOODLATTE, Mr. GARY MILLER of California, Mr. BLUNT, Mrs. EMERSON, Mr. PHELPS, Mr. HANSEN, Mr. SHIMKUS, Mr. HOEKSTRA, Mr. KNOLLENBERG, Mr. TANCREDO, Mr. GUTKNECHT, Mr. DEMINT, Mr. HAYWORTH, Mr. CHAMBLISS, Mr. ENGLISH, Mr. WELDON of Florida, Mr. BRADY of Texas, Mr. JONES of North Carolina, Mr. SCHAFFER, Mr. STEARNS, Mr. DEAL of Georgia, Mr. CANTOR, Mr. EVERETT, Mrs. JO ANN DAVIS of Virginia, Mr. LAHOOD, Mr. HASTINGS of Washington, Mr. LIPINSKI, Mr. LEWIS of Kentucky, Mr. OXLEY, Mr. DOOLITTLE, and Mr. ROGERS of Michigan) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title 18, United States Code, and the Uniform
Code of Military Justice to protect unborn children from
assault and murder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Unborn Victims of Vio-

5 lence Act of 2001".

6 **SEC. 2. PROTECTION OF UNBORN CHILDREN.**

7 (a) IN GENERAL.—Title 18, United States Code, is

8 amended by inserting after chapter 90 the following:

9 **"CHAPTER 90A—PROTECTION OF UNBORN**

10 **CHILDREN**

"Sec.
"1841. Protection of unborn children.

11 **"§ 1841. Protection of unborn children**

12 "(a)(1) Whoever engages in conduct that violates any

13 of the provisions of law listed in subsection (b) and thereby

14 causes the death of, or bodily injury (as defined in section

15 1365) to, a child, who is in utero at the time the conduct

16 takes place, is guilty of a separate offense under this sec-

17 tion.

18 "(2)(A) Except as otherwise provided in this para-

19 graph, the punishment for that separate offense is the

20 same as the punishment provided under Federal law for

21 that conduct had that injury or death occurred to the un-

22 born child's mother.

23 "(B) An offense under this section does not require

24 proof that—

1   ''(i) the person engaging in the conduct had

2   knowledge or should have had knowledge that the

3   victim of the underlying offense was pregnant; or

4   ''(ii) the defendant intended to cause the death

5   of, or bodily injury to, the unborn child.

6   ''(C) If the person engaging in the conduct thereby

7 intentionally kills or attempts to kill the unborn child, that

8 person shall instead of being punished under subpara-

9 graph (A), be punished as provided under sections 1111,

10 1112, and 1113 of this title for intentionally killing or at-

11 tempting to kill a human being.

12   ''(D) Notwithstanding any other provision of law, the

13 death penalty shall not be imposed for an offense under

14 this section.

15   ''(b) The provisions referred to in subsection (a) are

16 the following:

17   ''(1) Sections 36, 37, 43, 111, 112, 113, 114,

18   115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f),

19   (h)(1), and (i), 924(j), 930, 1111, 1112, 1113,

20   1114, 1116, 1118, 1119, 1120, 1121, 1153(a),

21   1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512,

22   1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B),

23   and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116,

24   2118, 2119, 2191, 2231, 2241(a), 2245, 2261,

1 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A,

2 and 2441 of this title.

3 "(2) Section 408(e) of the Controlled Sub-

4 stances Act of 1970 (21 U.S.C. 848(e)).

5 "(3) Section 202 of the Atomic Energy Act of

6 1954 (42 U.S.C. 2283).

7 "(c) Nothing in this section shall be construed to per-

8 mit the prosecution—

9   "(1) of any person for conduct relating to an

10   abortion for which the consent of the pregnant

11   woman, or a person authorized by law to act on her

12   behalf, has been obtained or for which such consent

13   is implied by law;

14   "(2) of any person for any medical treatment of

15   the pregnant woman or her unborn child; or

16   "(3) of any woman with respect to her unborn

17   child.

18 "(d) As used in this section, the term 'unborn child'

19 means a child in utero, and the term 'child in utero' or

20 'child, who is in utero' means a member of the species

21 homo sapiens, at any stage of development, who is carried

22 in the womb.".

23 (b) CLERICAL AMENDMENT.—The table of chapters

24 for part I of title 18, United States Code, is amended by

1 inserting after the item relating to chapter 90 the fol-

2 lowing new item:

"90A. Protection of unborn children .... **1841".**

3 **SEC. 3. MILITARY JUSTICE SYSTEM.**

4 (a) PROTECTION OF UNBORN CHILDREN.—Sub-

5 chapter X of chapter 47 of title 10, United States Code

6 (the Uniform Code of Military Justice), is amended by in-

7 serting after section 919 (article 119) the following new

8 section:

9 **"§ 919a. Art. 119a. Protection of unborn children**

10 "(a)(1) Any person subject to this chapter who en-

11 gages in conduct that violates any of the provisions of law

12 listed in subsection (b) and thereby causes the death of,

13 or bodily injury (as defined in section 1365 of title 18)

14 to, a child, who is in utero at the time the conduct takes

15 place, is guilty of a separate offense under this section.

16 "(2)(A) Except as otherwise provided in this para-

17 graph, the punishment for that separate offense is the

18 same as the punishment provided under this chapter for

19 that conduct had that injury or death occurred to the un-

20 born child's mother.

21 "(B) An offense under this section does not require

22 proof that—

23 "(i) the person engaging in the conduct had

24 knowledge or should have had knowledge that the

25 victim of the underlying offense was pregnant; or

1 ''(ii) the accused intended to cause the death of,

2 or bodily injury to, the unborn child.

3 ''(C) If the person engaging in the conduct thereby

4 intentionally kills or attempts to kill the unborn child, that

5 person shall, instead of being punished under subpara-

6 graph (A), be punished as provided under sections 880,

7 918, and 919(a) of this title (articles 80, 118, and 119(a))

8 for intentionally killing or attempting to kill a human

9 being.

10 ''(D) Notwithstanding any other provision of law, the

11 death penalty shall not be imposed for an offense under

12 this section.

13 ''(b) The provisions referred to in subsection (a) are

14 sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926,

15 and 928 of this title (articles 118, 119(a), 119(b)(2),

16 120(a), 122, 124, 126, and 128).

17 ''(c) Nothing in this section shall be construed to per-

18 mit the prosecution—

19 ''(1) of any person for conduct relating to an

20 abortion for which the consent of the pregnant

21 woman, or a person authorized by law to act on her

22 behalf, has been obtained or for which such consent

23 is implied by law;

24 ''(2) of any person for any medical treatment of

25 the pregnant woman or her unborn child; or

1   "(3) of any woman with respect to her unborn

2   child.

3   "(d) In this section, the term 'unborn child' means

4 a child in utero, and the term 'child in utero' or 'child,

5 who is in utero' means a member of the species homo sapi-

6 ens, at any stage of development, who is carried in the

7 womb.".

8   (b) CLERICAL AMENDMENT.—The table of sections

9 at the beginning of such subchapter is amended by insert-

10 ing after the item relating to section 919 the following

11 new item:

"919a. 119a. Protection of unborn children.".

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